



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William H. Minor, Esq.
Peter R. Zeidenberg, Esq.
DLA Piper U.S., L.L.P.
500 8th Street, N.W.
Washington, D.C. 20004

NOV 25 2009

RE: MUR 6127
Saul Ewing, L.L.P.

Dear Messrs. Minor and Zeidenberg:

On November 10, 2008, the Federal Election Commission notified your client, Saul Ewing, L.L.P., of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your client at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, as well as publicly available information, the Commission, on November 17, 2009, voted to find no reason to believe that Saul Ewing, L.L.P. violated 2 U.S.C. § 441a(a)(1)(A) and 11 C.F.R. § 110.1(b). The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remain in effect, and that this matter is still open with respect to other respondents. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Jin Lee, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "JKM", written over a circular stamp.

Julie Kara McConnell
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Saul Ewing LLP

MUR: 6127

I. INTRODUCTION

The Complaint in this matter alleges that Saul Ewing LLP ("Saul Ewing") intended to make, an excessive contribution in the form of pro bono legal services provided by Saul Ewing lawyers to Obama for America, the principal campaign committee of President Barack Obama, during the 2008 election in violation of 2 U.S.C. § 441a. Based on the discussion below, the Commission finds no reason to believe that Saul Ewing made an excessive contribution in violation of 2 U.S.C. § 441a.

II. FACTUAL BACKGROUND

Saul Ewing is a law firm organized as a Delaware limited liability partnership.¹ It has offices throughout the Mid-Atlantic region of the United States. On October 28, 2008, an article published in the *New York Times* reported that thousands of lawyers were assisting President Barack Obama's campaign by monitoring the polls on Election Day.² The article described how Saul Ewing allowed attorneys employed by the firm to receive pro bono credit for voter protection work and quoted a Saul Ewing partner, Orlan Johnson, who stated, "Our lawyers are willing to go mano-a-mano."³ The article then identified Mr. Johnson as "a member of the Obama national finance committee," and in the immediately following sentence, stated, "All

¹ See Saul Ewing Website, http://www.saul.com/about_us/aboutus.aspx.

² See Lealie Wayne, *Party Lawyers Ready to Keep an Eye on the Polls*, NEW YORK TIMES, Oct. 28, 2008.

³ *Id.*

1 volunteers must undergo a training session either in person or online with the Obama
2 campaign.”⁴

3 **III. LEGAL ANALYSIS**

4 During the 2008 general election, no person could make a contribution, which exceeded
5 \$2,300, to any federal candidate and his authorized committee. 2 U.S.C. § 441(a)(1)(A); 11
6 C.F.R. § 110.1(b). 2 U.S.C. § 431(11) defines “person” to include a partnership. *Id.* Under
7 Commission regulations, a contribution by a partnership must be attributed to the partnership and
8 to each partner either in direct proportion to his or her share of the partnership profits or by
9 agreement of the partners. 11 C.F.R. § 110.1(e)(1), (2). Because Saul Ewing is a partnership, it
10 was subject to the Act’s contribution limits.

11 Citing the October 28, 2008 *New York Times* article, the Complaint alleges that OFA
12 intended to knowingly accept, and Saul Ewing, LLP intended to make, excessive contributions
13 through pro bono legal services rendered by Saul Ewing to OFA in violation of 2 U.S.C. § 441a.
14 Barring some exceptions, the provision of free legal services to a political committee becomes a
15 contribution under 2 U.S.C. § 431(8)(A)(ii), which states that a contribution includes, “the
16 payment by any person of compensation for the personal services of another person which are
17 rendered to a political committee without charge for any purpose.” *Id.*; *see also* 11 C.F.R.
18 § 100.54; AO 2006-22 (Jenkins & Gilchrist) (law firm’s preparation of amicus brief on behalf of
19 political committee free of charge would constitute a contribution). Thus, if Saul Ewing did
20 provide pro bono legal services to OFA, it would have made a contribution to OFA.

21 OFA and Saul Ewing both contend, however, that Saul Ewing never provided pro bono
22 services to OFA. *See* OFA Response at 2-3; Saul Ewing Response at 2. OFA states that it has
23 no knowledge of Saul Ewing providing any pro bono legal services to OFA. OFA Response at

⁴ *Id.*

1 2-3. In addition, Saul Ewing indicates that the article did not accurately report the voter
2 protection activities of its lawyers. *Id.* Although some of its attorneys participated in such
3 activities for pro bono credit, the attorneys participated in a nonpartisan voter protection effort
4 led by the Lawyers' Committee for Civil Rights Under Law, not the Obama campaign. Saul
5 Ewing Response at 2. According to Saul Ewing, while the *New York Times* reporter did speak
6 with Mr. Johnson, Mr. Johnson believed that her questions concerned his personal role in the
7 Obama campaign and not the law firm. *See id.* at 2. Given the specific information provided by
8 OFA and Saul Ewing, the Responses adequately rebut the allegations contained in the
9 Complaint.

10 **IV. CONCLUSION**

11 Based upon the foregoing information, the Commission finds no reason to believe that
12 Saul Ewing violated of 2 U.S.C. § 441a(a).